

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

Petition No. 2001-0628-010-041

vs.

Yvonne Graham, RN
Registered Nurse License No. R31125
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges dated March 27, 2002. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Yvonne Graham, RN (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated April 11, 2002, scheduling a hearing for May 15, 2002. Dept. Exh. 1.

Respondent was provided notice of the hearing and of the charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to respondent's address of record.

The hearing took place on May 15, 2002, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing and was not represented by counsel. Transcript, May 15, 2002, pp. 2-3.

Respondent orally answered the Statement of Charges. Transcript, May 15, 2002, pp. 6-8.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was at all times referenced in the Statement of Charges, the holder of Connecticut registered nurse license number R31125. Dept. Exh. 1; Transcript, May 15, 2002, p. 6.
2. At all relevant times, respondent was employed as a registered nurse at Candlewood Valley Health and Rehabilitation Center or New Milford Nursing Center, in New Milford, Connecticut. Dept. Exh. 1; Transcript, May 15, 2002, p. 6.
3. From September 2000 to February 2001, while working as a registered nurse at Candlewood Valley Health and Rehabilitation Center, respondent diverted for her own personal use the controlled substances Chlordiazepoxide, OxyIR, Oxycontin, Oxycodone, Meperidine, Diazepam, Morphine, Lorazepam, and/or Hydrocone; failed to completely, properly, and/or accurately document medical or facility records; and/or falsified one or more Controlled Substance Receipt Records. Dept. Exh. 1; Transcript, May 15, 2002, pp. 6-7.
4. From February 2001 to May 2001, while working as a registered nurse at New Milford Nursing Center, respondent diverted for her own personal use the controlled substances Percocet, Morphine, and/or Oxycodone; failed to completely, properly, and/or accurately document medical or facility records; and/or falsified one or more Controlled Substance Receipt Records. Dept. Exh. 1; Transcript, May 15, 2002, p. 7.
5. Respondent believes she has a history of an addiction with eating which, when combined with her depression and with the introduction of narcotic pain medication prescribed to manage her post surgical pain, caused her to divert and/or abuse the controlled substances Percocet, Morphine, Oxycontin, Chlordiazepoxide, OxyIR, Oxycodone, Meperidine, Diazepam, Lorazepam, and/or Hydrocone. Dept. Exh. 2; Transcript, May 15, 2002, pp. 22-24.
6. Respondent has abused alcohol and/or prescription opiates as recently as November, 2001. Dept. Exh. 3; Transcript, May 15, 2002, pp. 18-21.
7. Respondent has been receiving individual therapy for chemical dependency and has been participating in Alcoholics Anonymous, Narcotics Anonymous, and a support group for medical professionals. Respondent therapist indicates that respondent has submitted to urine drug screening, the results of which have been negative. Rt. Exh. A; Dept. Exh 4; Transcript, May 15, 2002, pp. 18-31.
8. On December 19, 2001, the Board accepted an Interim Consent Order that provided for the registered nurse license of respondent to be suspended for a period of one hundred twenty (120) days or until April 17, 2002. Dept. Exh. 1; Transcript, May 15, 2002, p. 7.

9. The Interim Consent Order specifically provided that respondent would surrender her license, No. R31125, to the Board immediately upon approval of Order, and also specifically provided that respondent would execute releases for her treatment records, as requested by the Department. Dept. Exh. 1; Transcript, May 15, 2002, p. 7.
10. Respondent failed to surrender her license to the board immediately upon approval of the Interim Consent Order and failed to execute releases for her treatment records as requested by the Department. Dept. Exh. 1; Transcript, May 15, 2002, p. 7.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Yvonne Graham held a valid registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat.* §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The **FIRST COUNT PARAGRAPH 3** of the Statement of Charges alleges that between September 2000 and February 2001, while working as a registered nurse at Candlewood Valley Health and Rehabilitation Center, New Milford, Connecticut, respondent:

- a. diverted Chlordiazepoxide, OxyIR, Oxycontin, Oxycodone, Meperidine, Diazepam, Morphine, Lorazepam, and/or Hydrocone;
- b. failed to completely, properly and/or accurately document medical or facility records;
- c. falsified one or more Controlled Substance Receipt Records.

The **FIRST COUNT PARAGRAPH 4** of the Statement of Charges alleges that between February 2001 and May 2001, while working as a registered nurse at New Milford Nursing Center, New Milford, Connecticut, respondent:

- a. diverted Percocet, Morphine, and/or Oxycodone;
- b. failed to completely, properly and/or accurately document medical or facility records;
- c. falsified one or more Controlled Substance Receipt Records.

The **FIRST COUNT PARAGRAPH 5** of the Statement of Charges alleges that during 2001, respondent abused or excessively used controlled substances.

The **FIRST COUNT PARAGRAPH 6** of the Statement of Charges alleges that respondent's abuse of controlled substances, does, and/or may, affect her practice as a registered nurse.

Respondent admits paragraphs 2, 3, 4, and 5. Transcript, May 15, 2002, pp. 6-8.

The General Statutes of Connecticut §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals

Based on its findings and respondent's admission, the Board concludes that respondent's conduct as alleged in the First Count of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(2) and (5) and 19a-17.

The **SECOND COUNT PARAGRAPH 9** of the Statement of Charges alleges on December 19, 2001, the Board accepted an Interim Consent Order that provided for the registered nurse license of respondent to be suspended for a period of one hundred twenty (120) days or until April 17, 2002.

The **SECOND COUNT PARAGRAPH 10** of the Statement of Charges alleges the Interim Consent Order specifically provided that respondent immediately surrender her registered nurse license to the Board upon approval of the Interim Consent Order.

The **SECOND COUNT PARAGRAPH 11** of the Statement of Charges alleges the Interim Consent Order specifically provided that respondent would execute releases for her treatment records, as requested by the Department.

The **SECOND COUNT PARAGRAPH 12** of the Statement of Charges alleges respondent failed to surrender her registered nurse license to the Board immediately upon approval of the Interim Consent Order.

The **SECOND COUNT PARAGRAPH 13** of the Statement of Charges alleges respondent failed to execute releases for her treatment records, as requested by the Department.

The **SECOND COUNT PARAGRAPH 14** of the Statement of Charges alleges respondent violated the terms of the Interim Consent Order dated December 19, 2001 and that said conduct subjects respondent's license to disciplinary action.

Respondent admits paragraphs 9, 10, 11, 12, and 13. Transcript, May 15, 2002, pp. 6-8.

Based on its findings and respondent's admission, the Board concludes that respondent's conduct as alleged in the Second Count of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b) and 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99, the Board of Examiners for Nursing hereby orders the following:

1. That respondent's registered nurse license, number R31125, is placed on probation for a period of four (4) years for each of counts one and two. Said probation shall run concurrently.
2. If any of the following conditions of probation are not met, respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the period of probation the Board shall pre-approve respondent's employment or change of employment within the nursing profession.

- B. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
- C. Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as a nurse during the probationary period.
- D. If employed as a nurse, respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period.
- E. The employer reports cited in Paragraph D above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph Q below.
- F. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- G. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph Q below.
- H. At her expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.
- I. Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

- J. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period.
- K. The therapist reports cited in Paragraph J above shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph Q below.
- L. (1) At her expense, respondent shall be responsible for submitting to observed random chain of custody urine screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board of Examiners for Nursing to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process.
- Respondent shall be responsible for notifying the laboratory, her therapist, the Board, the Department and her prescribing practitioner of any drug(s) she is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, the respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:
1. A list of controlled substances prescribed by this provider for the respondent;
 2. A list of controlled substance(s) prescribed by other providers;
 3. An evaluation of the respondent's need for the controlled substance;
 4. An assessment of the respondent's continued need for the controlled substance(s).
- (2) There must be at least one (1) such random alcohol/drug screen weekly during the first and third years of the probationary period and at least two (2) such random alcohol/drug screens monthly during the second and fourth years of the probationary period.

(3) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

(4) Random alcohol/drug screens must include testing for the following substances:

| | |
|--------------------------------|-----------------------|
| Amphetamines | Methadone |
| Barbiturates | Methaqualone |
| Benzodiazepines | Opiates (Metabolites) |
| Cannabinoids (THC Metabolites) | Phencyclidine (PCP) |
| Cocaine | Propoxyphene |
| Meperidine (Demerol) | Ethanol (alcohol) |

(5) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph Q below, by respondent's therapist, personal physician or the testing laboratory.

- M. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- N. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine and that the ingestion of mouthwash may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds and mouthwash should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine and/or alcohol, the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such positive screen.
- O. The Board of must be informed in writing prior to any change of employment
- P. The Board must be informed in writing prior to any change of address.

Q. All correspondence and reports are to be addressed to:


Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
Board of Examiners For Nursing
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

3. Any deviation from the terms of probation, without prior written approval by the Board, shall constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board shall not be a waiver or preclude the Board's right to take subsequent action. The Board shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).
4. This Memorandum of Decision becomes effective, and the 4 (four) year probation of registered nurse license No. R31125 shall commence, on November 15, 2002.

The Board of Examiners for Nursing hereby informs respondent, Yvonne Graham, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 6th day of November 2002.

BOARD OF EXAMINERS FOR NURSING

By 

CERTIFICATION

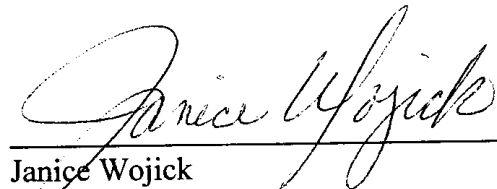
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 7th day of November 2002, by certified mail, return receipt requested, and first class mail to:

Yvonne Graham
372 Hutchinson Avenue
Wingdale, NY 12594

Certified Mail RRR #70993400001827342342

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308



Janice Wojick
Board Liaison
Department of Public Health
Public Health Hearing Office